



September 22, 2015

Ken Blodgett
Attention: Environmental filing, Docket NO. 30186
Surface Transportation Board
395 E Street, S.W.
Washington, DE 2043-0001

Subject: Tongue River Railroad Company Draft Environmental Impact Statement
Montana Department of Transportation Comments

Dear Mr. Blodgett,

The Montana Department of Transportation (MDT) staff has reviewed the Draft Environmental Impact Statement (DEIS) for the Tongue River Railroad Company (TRRC) released by the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA). Thank you for the opportunity to comment on the TRRC DEIS.

MDT has the following comments on the TRCC DEIS:

Chapter 2 – Section 2.2.10 Grade Crossing – This section states “For public roads, TRRC proposes at-grade crossing except where the rail line would cross Highway 212 or Interstate 94, which will be grade-separated crossings.” MDT agrees that Highway 212 or Interstate 94 (I-94) will be grade-separated. MDT has previously commented and will continue to require that all public roads under the jurisdiction of the Montana Transportation Commission be grade-separated. MDT is concerned that at-grade crossings will result in conflicts with vehicle traffic and trains which can result in accidents.

Chapter 2 – Section 2.2.11 Road Relocations – Any MDT routes that are relocated by TRRC must be designed to current MDT standards. MDT's current standards may result in a wider roadway width. Any roadway reconstruction must be reviewed and approved by MDT staff and if the roadway is under the jurisdiction of the Montana Transportation Commission, the work must also be approved by the Commission.

Chapter 2 – Section 2.2.14 Colstrip Subdivision Upgrades – It is unclear if TRRC will upgrade the at-grade crossing on Old Hwy 10 north of I-94 – Old Hwy 10 (X81018) is maintained by MDT and presently has lights and crossbucks. With the additional number of trains, and upgraded rail facility, this crossing may require advanced warning and additional control at the crossing.

Chapter 3 – Section 3.4.2.2 Safety Analysis Methods – New At-Grade Crossings – The discussion states “Federal Law requires that, at a minimum, each state provide signs at all crossings.” Under the Section 130 program, there is a section that discusses state maintaining a schedule for signs for railway-highway crossings. As this is a new rail line any signage will be the responsibility of the TRRC.

Chapter 3 – Section 3.4.4.1 Impacts Common to All build Alternative – Construction – Cause Temporary Increase in Predicted Grade-Crossing Accidents – The language in the DEIS states there is a high potential for collision during construction as construction trains will bring in materials however, there is no recommended mitigation for these risks.

Chapter 3 – Section 3.4.4.2 Impacts by Build Alternative - This section states Highway 314 would have the highest predicted accident frequencies. The accident predication calculation utilizes the type of warning device which has recently been changed from a flashing light only to flashing lights and gates. This may change the calculations presented in the DEIS.

Chapter 12 – Section 12.4 Section 4(f) and 6(f) Evaluation Summary – MDT staff forwarded this section to the Montana Division of Federal Highway Administration (FHWA) for review and comment. MDT staff understands that FHWA makes the determination of *de minimis* not the Office of Environmental Analysis (OEA). The language concerning the *de minimis* impact determination requires the Agency with Jurisdiction (city of Miles City) to agree with the *de minimis* impact determination. This documentation must be provided in writing to FHWA and MDT staff in writing from the city of Miles City. If one of the Tongue River Alignments is chosen as the preferred alternative, the documentation from the city of Miles City must be provided prior to FHWA determination.

MDT also would like OEA to add clarification to this section that if any cultural site is impacted along the Tongue River Alignments the Section 4(f) requirements will apply. The proposed Section 106 programmatic agreement is adequate for the purposes of Section 106 but will not satisfy the requirements for Section 4(f). If resources are identified after the completion of the EIS document, the OEA will need to re-visit Section 4(f) compliance (if additional resources are identified and if an alignment is selected that requires FHWA approval).

Chapter 18 – Section 18.4.1 Relevant Projects and Actions – MDT did complete a pre-NEPA/MEPA corridor study for the Tongue River Road Corridor. This study makes recommendations for improvement options, such as paving the Tongue River Road (S-332). These are only recommendations, no projects will be forwarded until the funding is prioritized and a project is nominated through the MDT Secondary Roads Program process. With this information, any MDT funded improvements to the Tongue River Road are not in the foreseeable future.

Chapter 19 – Section 19.2.1.2 OEA's Preliminary Recommended Mitigation – MM-2 – MDT does not agree with the language "applicable and reasonable requirement of permits" MDT permit requirements are developed to protect the public and the roadway infrastructure. The term "reasonable" is a difficult concept to define and determine. MDT proposes following for the mitigation language: "TRRC shall obtain applicable requirements of permits and approvals prior to undertaking any activity within MDT right-of-way or State Highways where the Transportation Commission has jurisdiction".

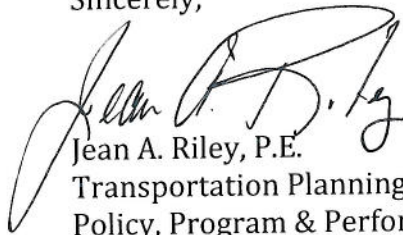
Chapter 19 – Section 19.2.4.2 OEA’s Preliminary Recommended Mitigation – MM-18 – If a quiet zone is requested, establishment of the quiet zone is done by the Road Authority according to 49 CFR Part 222. A community request for a quiet zone does not ensure the road authority will allow it.

Chapter 19 – Section 19.2.8 Cultural Resources – As stated previously, if an alignment is chosen that requires FHWA approval, then Section 4(f) will apply to impacted cultural resources; Section 106 mitigation will not satisfy the requirements for Section 4(f).

Appendix Q – Draft Section 4(f) and Section 6(f) Evaluation – As previously discussed above FHWA staff will make the determination of *de minimis*, and the proposed Section 106 programmatic agreement is adequate for the purposes of Section 106 but will not satisfy the requirements for Section 4(f). If resources are identified after the completion of the EIS document, the lead agency will need to re-visit Section 4(f) compliance (if additional resources are identified and if an alignment is selected that requires FHWA approval).

Thank you for the opportunity to comment on the TRRC DEIS. If you have any questions concerning these comments, please contact me at jriley@mt.gov or (406)444-9456.

Sincerely,



Jean A. Riley, P.E.

Transportation Planning Engineer

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 File